

# PUBLIC SUBMISSION

<b>As of:</b> 11/29/21 1:20 PM
<b>Received:</b> November 11, 2021
<b>Status:</b> Pending_Post
<b>Tracking No.</b> kvv-7xcw-h9a5
<b>Comments Due:</b> November 26, 2021
<b>Submission Type:</b> Web

**Docket:** COLC-2021-0006  
Publishers' Protections Study

**Comment On:** COLC-2021-0006-0001  
Publishers' Protections Study

**Document:** COLC-2021-0006-DRAFT-0005  
Netanel, Neil - Initial Comment

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## General Comment

I examine the EU CDSM Directive Article 15 Press Publisher's Right on pages 500-506 of my recently published article, Mandating Digital Platform Support for Quality Journalism, 34 Harvard Journal of Law & Technology 473 (2021), a copy of which is attached. I survey studies showing that the press publisher's right has proven to be ineffective in countries that have adopted it. The publisher's right also targets the wrong issue. News aggregators appear to generate greater traffic to news publishers' websites overall, not appropriate news publishers' business by listing news stories. Rather Google and Facebook have devoured news publisher revenues due to the digital platforms' duopoly control of the digital advertising market. That would happen even if there were no Google News or other news aggregators. As I detail in my article, I propose instead that an excise tax be imposed on digital advertising revenue, with the proceeds earmarked to a trust fund for investigative journalism. I also propose that major digital platforms should be required to support news publisher brands by prioritizing and prominently featuring original reporting in their content algorithms. My article also examines current protections for press publishers in the U.S. under copyright law (pp. 496-498) and hot news misappropriation (pp. 498-500). I also examine (at pp. 506-512) competition law, including antitrust, the proposed Journalism Competition and Preservation Act, and the Australian law that mandates platform bargaining with news publishers.

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## Attachments

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